

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 416

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

AN ACT

RELATING TO TAXATION; PROVIDING FOR AN INCOME TAX OR CORPORATE
INCOME TAX CREDIT FOR CERTAIN FILM PRODUCTION EXPENDITURES MADE
IN NEW MEXICO; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. NEW MEXICO FILMMAKER TAX CREDIT. --

A. The tax credit created by this section may be referred to as the "New Mexico filmmaker tax credit". An eligible film production company may apply for, and the taxation and revenue department may allow, a tax credit in an amount equal to five percent of direct production expenditures:

- (1) that are made in New Mexico;
- (2) that are subject to taxation by the state of New Mexico;
- (3) of which sixty percent of the below-the-

1 line crew payroll are residents of New Mexico;

2 (4) are made by residents of New Mexico for
3 the purposes of this section, as defined in Subsection G of
4 this section;

5 (5) on equipment, goods, services, vehicles or
6 other direct production expenditures provided by individuals or
7 companies paying gross receipts tax in New Mexico for a minimum
8 of two years;

9 (6) on rental equipment if it is domiciled in
10 New Mexico for a minimum of one hundred eighty-three days per
11 year as defined by the New Mexico film division of the economic
12 development department; and

13 (7) that are made for the purposes of
14 producing a television series.

15 B. The New Mexico filmmaker tax credit shall not be
16 claimed with respect to expenditures for which the film
17 production company claiming the credit has delivered a
18 nontaxable transaction certificate pursuant to Section 7-9-86
19 NMSA 1978.

20 C. A long-form narrative film production for which
21 the New Mexico filmmaker tax credit is claimed shall contain an
22 acknowledgment that the production was filmed in New Mexico.

23 D. To be eligible for the New Mexico filmmaker tax
24 credit, a film production company shall submit to the New
25 Mexico film division of the economic development department

. 156585. 2

1 information required by the division to demonstrate conformity
2 with the requirements of this section. The division shall
3 determine the eligibility of the company and shall report this
4 information to the taxation and revenue department in a manner
5 and at times the economic development department and the
6 taxation and revenue department shall agree upon.

7 E. To receive a New Mexico filmmaker tax credit, a
8 film production company shall apply to the taxation and revenue
9 department on forms and in the manner the department may
10 prescribe. The application shall include a certification in
11 the amount of direct production expenditures made in accordance
12 with this section with respect to the film production for which
13 the film production company is seeking the New Mexico filmmaker
14 tax credit. If the requirements of this section have been
15 complied with, the taxation and revenue department shall
16 approve the New Mexico filmmaker tax credit and issue a
17 document granting the credit.

18 F. The film production company may apply for all or
19 a portion of the New Mexico filmmaker tax credit granted
20 against personal income tax liability or corporate income tax
21 liability or any tax liability of a limited liability company.
22 If the amount of the New Mexico filmmaker tax credit claimed
23 exceeds the film production company's tax liability for the
24 taxable year in which the credit is being claimed, the excess
25 shall be refunded.

. 156585. 2

G. For the purposes of this section:

(1) "direct production expenditure" means an expenditure used in the production of a film for:

- (a) the cost of a story or scenario;
- (b) wages or salaries for talent, management or labor paid to a resident of New Mexico;
- (c) the cost of set construction and operations, wardrobe, accessories and related services;
- (d) the cost of photography, sound synchronization, lighting and related services;
- (e) the cost of editing and related services;
- (f) rental of facilities and equipment;
- (g) leasing of a vehicle;
- (h) the cost of food or lodging;
- (i) travel costs limited to airfare paid to a travel agency or travel company with its primary place of business in New Mexico;
- (j) the cost of insurance and bonding paid to an insurance company or agency with its primary place of business in New Mexico; and
- (k) other direct costs of producing the film;

(2) "film" means a single media or multimedia program, including a national advertising message, that is

underscored material = new
[bracketed material] = delete

1 fixed on film, videotape, computer disc, laser disc or other
2 similar delivery medium, that can be viewed or reproduced and
3 that is:

- 4 (a) exhibited in a theater;
- 5 (b) intended for exhibition by a
6 television station, network or other means;
- 7 (c) intended for the home viewing
8 market; or
- 9 (d) publicly viewed in any other medium;

10 (3) "film production company" means a company
11 or limited liability company or any entity that produces a film
12 for exhibition in theaters, on television or elsewhere;

13 (4) "New Mexico resident" means a person whose
14 primary residence has been in the state of New Mexico for the
15 previous two years as defined by the New Mexico film division
16 of the economic development department in consultation with the
17 taxation and revenue department and as evidenced by a signed
18 residency affidavit;

19 (5) "New Mexico vehicle" means a vehicle
20 originally titled in New Mexico or continuously titled in New
21 Mexico for a minimum of two years;

22 (6) "New Mexico vendor" means a vendor who
23 demonstrates significant ownership interest in New Mexico
24 domiciled equipment, as defined by the New Mexico film division
25 of the economic development department, provided for lease to

. 156585. 2

underscored material = new
[bracketed material] = delete

1 production companies in their New Mexico operation; and

2 (7) "television series" means one or more
3 productions that may be exhibited by a television station or
4 network.

5 H. By October 15, 2005 and by October 15 of each
6 year thereafter, the New Mexico film division of the economic
7 development department and the taxation and revenue department
8 shall provide a written report to the legislative finance
9 committee that reviews and assesses the impacts of the New
10 Mexico filmmaker tax credit.

11 Section 2. DELAYED REPEAL.--Section 1 of this act is
12 repealed effective January 1, 2009.

13 Section 3. APPLICABILITY.--The provisions of this act
14 apply to taxable years beginning on or after January 1, 2005.

15 Section 4. EMERGENCY.--It is necessary for the public
16 peace, health and safety that this act take effect immediately.